

STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 DELAWARE AVENUE
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 74-5

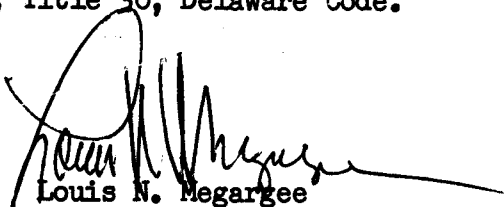
May 10, 1974

- Delaware Unfair Cigarette Sales Act (1974)

H. B. 578, 127th General Assembly, approved April 20, 1974, replaces existing Chapter 26, Title 6, Delaware Code, (the Unfair Cigarette Sales Act) with a new Chapter 26 (with the same Title), which prohibits the sale of cigarettes at wholesale at prices below those defined in the law as "cost to the wholesaler," if such sale is made with intent to injure competitors or to destroy or substantially lessen competition. The law provides that proof of a sale of cigarettes at less than cost to the seller (as defined in the Act) constitutes prima facie evidence of such intent. In substance, H. B. 578 amends the existing Unfair Cigarette Sales Act to make it applicable only to wholesalers of cigarettes and to eliminate retailers from its application.

Pursuant to authority granted by Section 2608, Title 6, Delaware Code, the Division of Revenue is required to establish minimum prices at which cigarettes may be sold at wholesale, determined in accordance with the provisions of the Unfair Cigarette Sales Act, by the application of the formula and percentage mark-ups specified therein. Such minimum prices have been determined by separate regulation, but are subject to adjustment upon presentation of proof of a lesser cost of doing business than that prescribed by the Act, or upon subsequent price changes by the manufacturers.

Upon complaint of any person affected by the Act, the Court of Chancery of any County has jurisdiction to enjoin any wholesaler from the commission of any Act prohibited by this Chapter, and to award damages and costs. Further, after notice and hearing regarding any alleged violation, if the Secretary of Finance finds any person has violated the provisions of this Act, he may suspend or revoke the wholesale cigarette vendors license issued pursuant to Chapter 54, Title 30, Delaware Code.


Louis N. Megargee
Director of Revenue

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